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DEPT FOR WHA/CAR - JTILGHMAN  
WHA/EPSC - LMARTILOTTA  
TREASURY FOR - SARA GRAY

E.O. 12958: N/A

TAGS: [PREL](#) [PINR](#) [SOCI](#) [ETRD](#) [ENRG](#) [ECON](#) [EINV](#) [XL](#) [JM](#)

SUBJECT: JAMAICA: CEASE AND DESIST, CASH PLUS IS IN TROUBLE

REF: A. 07 KINGSTON 1641

[1](#)B. 07 KINGSTON 1712

[1](#)C. 07 KINGSTON 1749

#### SUMMARY

[1](#)1. (SBU) Serious cracks are forming in the dubious investment scheme Cash Plus as it faces its first liquidity crisis and a Government of Jamaica (GOJ) cease and desist order (reftels). After several weeks of late interest payments to participants, Cash Plus is asking participants to roll over their interest payments for 90 days in order to allow the entity to reorganize. Adding to Cash Plus woes, the GOJ has secured three victories in its efforts to regulate the scheme. First, the Jamaican Supreme Court held on Monday December 24 that Olint Corporation (see reftel C) and LewFam Investments, both alternative investment schemes involved in foreign currency trading, fall under the provisions of the Securities Act and therefore must secure relevant licenses and open their books to regulators. The precedent paves the way for the regulation of other alternative investment schemes like Cash Plus. Second, the Financial Services Commission (FSC) was able to get Cash Plus to turn over financial information disclosing its assets on December 20 after previous demands went unheeded. Third, based on the information it received from Cash Plus and the new court ruling, the FSC issued a cease and desist order on December 28 against Cash Plus, asserting that its operations are in breach of the Securities Act. The FSC has claimed for years that legal loopholes have tied its hands in regard to regulating these schemes, the loopholes now appear closed. End summary.

#### Cash Plus Lacks Cash Flow

[1](#)2. (SBU) Cash Plus borrows money from individuals with a promise of monthly returns between 10 to 18 percent (reftels). In recent weeks, Cash Plus interest payments to participants have been delayed and many of the checks issued were returned for insufficient funds. The local press reports that skittish investors are waiting outside of Cash Plus' offices demanding their money. Cash Plus Chairman, Carlos Hill, blames the cash flow problems on installation of a new account payment system and failures on the part of jealous commercial banks to cash checks issued by Cash Plus in a timely manner. The new cease and desist order has raised the stakes on Hill's cash flow problems. In full page newspaper ads on December 30, Cash

Plus announced that it has come "under severe attack in a manner that is unprecedented in Jamaica" which has "disrupted the smooth operations of the company." Hill, who has been the focus of increased media attention regarding his criminal convictions in the United States for financial crimes (reftel b), is asking participants to roll over their interest payments for three months to enable Cash Plus to "regularize its operations as a profitable conglomerate of companies." Hill promises participants that they will receive a stake in the company equivalent to the amount of their loan and a first lien against the assets of the new entity.

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Three Year Liabilities of USD 328 million  
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¶3. (SBU) The Gleaner newspaper reported on December 30 that unaudited account statements for Cash Plus indicate interest liabilities for the next three years of USD 328 million. Cash Plus also lists another USD 328 million in assets and USD 210 million in shareholder equity. According to the Gleaner, the documents indicate that short-term debts are USD 400,000 more than current assets. Cash flow issues will only worsen if new deposits dry up as increasingly skittish investors refuse to add money to Cash Plus accounts. (COMMENT: It is still unclear how much money Cash Plus actually has under its control and if these funds are still in Jamaica. In a press report in early December, one of the lawyers for Cash Plus, K.D. Knight who is also a current senator with the opposition Peoples' National Party (PNP), said Cash Plus has over USD 56 million in its accounts. Cash Plus has been reluctant to talk about its holdings and has repeatedly claimed to own assets in which it has not actually closed, but increased

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scrutiny by the FSC may bring some of this information to light).

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Supreme Court Ruling Paves Way for Regulation  
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¶4. (SBU) The 112 page ruling handed down by Justice Norma McIntosh is a major shift in granting the GOJ power to regulate alternative investment schemes in Jamaica. The FSC and other representatives of the GOJ have told Emboff that they lacked the ability to regulate these schemes because they exist within loopholes of the law. The court held that Olint and LewFam are now subject to regulation and fall under financial scrutiny of the FSC. This will require these schemes to open their books to regulators and justify how they have been able to make such unprecedented monthly returns. This case began in March 2006 when the FSC issued a cease and desist order against Olint and LewFam for operating without the requisite licenses pursuant to section 7 and 8 of the Securities Act. Olint and LewFam countered that their activities relate to foreign currency trading, which is not a security as defined by section 2 of the Securities Act and therefore their operations do not fall under the regulatory scope of the FSC. This is that same argument that other alternative investment schemes like Cash Plus having been making against the FSC (reftels). With the most recent cease and desist order against Cash Plus, the FSC now appears to believe it has the legal authority to bring these schemes under control.

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CEASE AND DESIST  
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¶5. (SBU) Pursuant to section 68(1B) of the Securities Act the FSC issued its cease and desist order on December 28 against Cash Plus and its employees and agents and more

specifically Carlos Hill and Khalil Harris. The FSC states that its investigation indicates that Cash Plus is engaging in securities activities in breach of the Securities Act section 7 (which prohibits engaging in a securities business without being a licensed securities dealer) and section 10 (which prohibits an individual from carrying out the functions of a dealer's representative without first being registered for that purpose with the FSC). The FSC also asserts that Cash Plus is issuing unregistered securities to the public in breach of section 26 of the Securities Act. The FSC is publishing the notice in newspapers advising the public to refrain from investing with or through persons that are not registered or licensed under the Securities Act. Violating the cease and desist order is punishable by fines and or imprisonment.

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COMMENT  
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16. (SBU) The relatively new Jamaican Labour Party-led government is in an unenviable position as it seeks to regulate the two dozen alternative investment schemes operating in the country. If Cash Plus does collapse in the coming weeks, Hill will be quick to blame GOJ intervention as the cause of its decline. The FSC tried to warn Jamaicans about the risks of these schemes over the past few years, but claimed it lacked the legal authority to do more. Meanwhile the schemes have grown to near epidemic proportions luring in hundreds of less sophisticated investors. As the GOJ makes the long over due move to bring these schemes under control, the likely collapse of some, will create a whole new set of economic and social challenges for the already beleaguered JLP administration.

JOHNSON